

REMARKS

This Amendment is being submitted in response to the Official Action dated October 15, 2007. Claim 1 is amended. Claims 5 and 12 having been previously cancelled and claim 8 having been previously withdrawn, claims 1-4, 6, 7, 9-11, 13 and 14 remain pending in this application.

The Examiner rejected claims 1-4, 6, 7, 9, 10, 13 and 14 under 35 U.S.C. 102 or, in the alternative, under 103(a) as being anticipated/obvious in view of U.S. Patent No. 6,474,846 (Flush Trim Collar Lighting System) to Kelmelis, *et al.* ("Kelmelis").

Applicant acknowledges and appreciates the time taken by Examiner Figueroa during the telephone interview of August 26, 2008, and her help in the phrasing the foregoing claim amendments. It was then discussed how recessed lighting fixtures typically include a light housing that fits down through a cutout in a ceiling structure. A trim ring may be attached there beneath to hide the cutout. However, trim rings are not always sufficient to completely cover the cutout. The present invention provides a rigid accent frame that is sandwiched between the trim ring and ceiling structure. The accent frame is larger than the trim ring, fully covers the cutout, and protrudes outward there from. The accent frame 5 has an outer edge 7 defining a patterned perimeter in some geometric shape such as a star (FIG. 1), a flower (FIG. 2), or a house (FIG. 3) which adds an aesthetically pleasing appearance to the lighting fixture as well as to the surface area immediately surrounding it. Thus, the accent frame 5 serves as a decorative transition between the surrounding structure and the trim ring and also covers up any imperfections in the finish or cut of the surrounding ceiling, wall or floor. The accent frame 5 is necessarily comprised of a thin sheet of rigid material *with a convex inner edge* defining an inner aperture corresponding in size and shape to the cut out, *and an annular lip circumscribing the aperture for proper positioning within the cutout.*

These structural features are reflected in claim 1, which requires the accent frame to be:

- 1) a rigid thin sheet of material larger in size than the finishing ring, said rigid thin sheet having an outer edge defining an object-shape and a convex inner edge defining an aperture having a lip for proper positioning with said cutout
- 2) said accent frame being maintained in place between and against said planar surface and said finishing ring by the pressure of said finishing ring being retained to said article.

The Examiner had contended that Kelmelis discloses all elements of the previous claims or that such elements are obvious in light of the disclosure, including an accent frame (19, 31) for framing an article inset (17) within a cutout (14) of a planar surface (13)...said accent frame comprising a rigid thin sheet of material (19, 31) larger in size than the finishing ring (41), said rigid thin sheet having an outer edge (0) defining an object shape and a convex inner edge defining an aperture having a lip (23) for proper positioning with said cutout, said accent frame (21, 31) being maintained in place between and against said planar surface (13) and said finishing ring (41) by pressure of said finishing ring being retained to said article (17) via clips (15), (annotated Figure 1). The Examiner asserts that the elements (19, 31) of Kelmelis are considered to be an "accent frame" since these elements are used to provide an ornamental appearance as can be seen in Figure 5. Element 19 is considered part of the accent frame.

During the telephone interview of August 26, 2008, a proposed Amendment was considered in which Applicant argued that the Examiner was improperly referring to the accent frame of Kelmelis as being either (19, 31) or (21, 31), and Applicant could respond in the alternative. Moreover, element 19 is a support ring 19 that seats down into the ceiling cutout, and 19 is the ceiling board itself. A finishing ring 41 is then screwed up against the support ring

19. The cited accent frame (19, 31) is not a rigid thin sheet of material (note the 1" downward flange), nor is it larger in size than the finishing ring (41) (it is the same size). Moreover, the outer edge does not define an object-shape. Further, the accent frame is screwed in and is not "maintained in place between and against said planar surface and said finishing ring by the pressure of said finishing ring being retained to said article."

Examiner Figueroa acknowledged during the telephone interview that the proposed amendments tended to distinguish Kelmelis but indicated that they would raise new issues requiring further search. Accordingly, Applicant submits the proposed amendments with revisions suggested by Examiner Figueroa, along with a Request for Continued Examination.

Claim 1 is herein amended to more carefully describe the relative structure and orientation of the support panel, recessed lighting fixture, and finishing ring within which the present accent frame cooperates. It is believed that this more thoughtful recitation of the interrelated structure aids in distinguishing Kelmelis, which is only superficially similar to the present invention but does not provide that which is claimed, and in fact is structured in such a way so as to be one of the few recessed ceiling light systems that is entirely incompatible with the present invention.

The support ring 19¹ and dry wall ceiling board 31 of Kelmelis constitute an accent frame for opening 14 in structure 13. Initially it is observed that reference character 13 refers to an accommodation box and not to a structure at all. The accommodation box is large metal box to dissipate heat from the lamp (Column 3 line 15-18.) The box 13 and support ring are entirely

¹ Please note that Figure 1 of Kelmelis, annotated by the Examiner and included in the Office Action, contains an error. Reference character "21" is used twice in the figure to identify different elements. The "21" associated with the lead line having an arrow head appears to be in error and should, according to Column 3 line 31, read "19" in reference to the support ring. Reference character 21 identifies a radically planar portion of the support ring 19. It is believed that the examiner intended to reference support ring 19 on line 1 of the second paragraph of section "3" beginning on page 3 of the official action as he did on lines 5 and 8 of that paragraph.

concealed within the ceiling structure 31 and are not visible such that to characterize support ring 19 as an *accent* frame is erroneous. An accent frame is something that emphasizes, highlights or calls attention to itself or something else through contrast. The support ring is entirely unseen and thus does not and cannot call attention to itself or anything else. Rather, the support frame 19 is intended to support and add strength to box 13. (Column 3, lines 33-34).

Dry wall ceiling board 31 is further not an accent ring but rather is the structure in which the cutout to be accented is made. (Column 3, lines 45-50). The Examiner, in annotated Figure 1, identifies an outer edge of ceiling board 31 which he identifies as "o," and asserts that "o" discloses outer edge 7 of the present invention. The Examiner had misconstrued Figure 1. Outer edge "o" does not exist in Kelmelis except for purposes of illustration. As indicated by the broken line at the edges of drywall ceiling 31 in Figures 6 and 7 of Kelmelis, drywall ceiling board 31 runs continuously across the ceiling stopping, as is conventional with wallboard construction, only at the perimeter walls. Outer edge O only exists in Figure 1 because it is not reasonably possible, or necessary, to depict the entire ceiling in the figure. To characterize the ceiling structure itself as an accent frame for a recessed light penetration is a distortion of the disclosure of Kelmelis.

The Examiner had earlier asserted that the axial portion 23 of support ring 19 constitutes a lip for proper positioning of the thin rigid sheet within the penetration. As described above, support ring 19 is provided to increase the strength of box 13 and is entirely screened from view by the drywall ceiling board 31. Axial portion 23 provides rigidity to box 13 but does not serve to position the ring 19 or ceiling board 31. Indeed, the position of ceiling board 31 is entirely a function of the underlying structure (generally wood joists) and shifting the ceiling board to

position the hole with the already installed ring 19 would result in entirely untenable gaps at the edge of the board and is entirely incompatible with construction techniques for hanging drywall ceiling board. This discordant interpretation is again a result of interpreting Kelmelis' dry wall ceiling structure 31 as an accent frame and serves to demonstrate the error in this interpretation.

The Examiner had also asserted that the support ring 19 and drywall ceiling 31 thus "serve[] as an aesthetically pleasing backdrop to said finishing ring 41 and serve[] to cover up any imperfections in the finish or cut f the surrounding structure." As described above, ring 19 is above the ceiling structure and is thus not visible behind it such that the drywall ceiling cannot be a backdrop to it. Further, dry wall ceiling board 31 cannot even be a backdrop to finishing ring 41 as ring 41 is made an integral part of drywall ceiling 31 during installation through the application of layers of dry wall compound over ring 41. (Column 5 line 33-41, see also Figure 6 reference number 81). Ring 41, although a finishing ring is thus not itself visible over drywall structure 31 and thus cannot and does not offer any ability to cover or hide imperfections in the surface.

Finally, the Examiner acknowledged that Kelmelis does not disclose slots and tension clips on the ring for maintaining the finishing ring 41 in the ceiling aperture. Rather, the examiner observed that the Kelmelis discloses clips 15 within box 13 that retain finishing ring and that it would be obvious to reverse this arrangement. Initially, it is observed that clips 15 actually retain Kelmelis' light fixture 17 and not the finishing ring, which is retained by the applied joint compound and screws or nails (Column 3, line 60) or via slots 53 and protrusions 63. Column 44, lines 44-60.) Whether or not adapting clips 15 to retain the finishing ring would be obvious, however, as the finishing ring and means of retention thereof are not structural elements of the present disclosure. Rather, the wherein clause if claim 1 is provided to describe

the functional interaction if the rigid thin sheet of the present invention with the finishing ring. Specifically, the clause describes how the ring retains the accent frame by compressing it between itself and the ceiling structure. The means of retaining the accent ring may vary with the article to be framed. Claim 1 has been amended to better describe this relationship and to clarify the other above described differences between the present disclosure and Kelmelis. Consequently, Applicant submits that claim 1 is patentably distinguished.

Claims 2-4, 6, 7, 9, 10, 13 and 14 are but additional recitations dependent on claim 1 and are therefore similarly patently distinguished. Specifically, with respect to claim 2, as described above Kelmelis does not disclose an outer edge. Edge “o” identified by the Examiner in the Kelmelis figures does not exist as an element of the invention but rather is simply a function of the necessity of depicting only a portion of the ceiling in which Kelmelis’s light fixture is installed.

With respect to claim 3, support ring 21 is not seated flush with structure but is affixed to box 13 for strength. Drywall ceiling 31 is itself the structure such that it error to describe it as flush with itself. Box 13 is an article above ceiling board 13, and with which it is adjacent, but it is a distortion to describe this as a structure with which it is flush.

With respect to claim 4, as described above, ring 21 and ceiling board 31 are adjacent to box 13 and do not flair away from it. Figure 5 to which the Examiner references does not depict this condition.

With respect to claim 6, the Examiner asserts that it would be a matter of design choice to select a material 1mm thick. It is observed that Kelmelis’ accent frame, as interpreted by the Examiner, is specifically directed to be constructed of dry wall ceiling board or plaster. Ceiling board and plaster are rigid materials but are incapable of being self supporting and indeed lack

any strength at all if made 1mm thick. Dry wall board must be made 5/8 inch thick (approx. 16mm) to have sufficient strength for ceiling installation. As such, Kelmelis's disclosure, as interpreted by the Examiner, cannot be employed where the dry wall is 1mm thick.

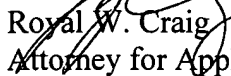
With respect to claim 9, the Examiner had asserted that box 13 is a ceiling. Box 13 is a light fixture accommodation box for heat dissipation and not a ceiling. (Column 3, line 11-18). Reference number 31 (ceiling board) in Fig. 1 is a ceiling, although the Examiner interprets this as an accent frame.

With respect to claim 13, the Examiner asserted that Kelmelis' frame is capable of being decorative and covering up imperfections in the ceiling cutout. As described above, the elements identified by the Examiner as disclosing the accent frame are either above the ceiling and thus entirely out of view, or the ceiling board itself. It is unclear how these elements can be decorative or cover imperfections, as previously described.

Considering these remarks, it is respectfully submitted that Kelmelis' does not disclose the element of the present invention and is in fact incompatible with the present invention such that it would not be obvious from Kelmelis' disclosure to derive the present invention. While the inventions are related to the extent that they both deal with, on some level, ceiling penetrations, their disclosures are entirely different and disclose unrelated approaches to dressing such openings. In view of the above, pending claims 1-4, 6, 7, 9-11, 13 and 14 are believed to avoid all of the rejections set forth in the Official Action. It is believed that this application is now in the proper condition, and a Notice of Allowance is respectfully requested.

Application of: Horton
Appln. No. 10/825,836
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Respectfully submitted,


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